App F IX 4

Previous References

1943 Municipal

File No 88-43

Serial Nos 25, 43, 128, 129

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos Jan

Part B for Aug 1944

SUBJECT

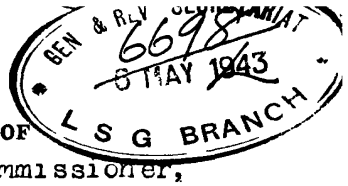
Re the order of the D C, Shimoga suspending under Section 194 of the Mysore Town Municipalities Act 1933 the licence issued by the Shimoga Town Municipality to the Secy Anjuman-e-Islamia, Shimoga town. for erecting a Garadi mandi in the Shimoga town

R 174

The D C, Shimoga Lr No 1803 dated 23/8/44

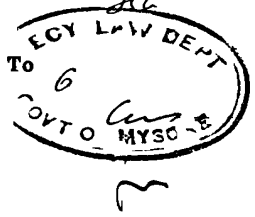
Confirms the above order of the D C

GOVERNMENT OF MYSORE



OFFICE OF
The Deputy Commissioner,
Shimoga District,
Shimoga
Date the 5th May 1943

No L3 P L 400/42-43
Encls



To The Secretary
to the Government of His Highness the
Maharaja of Mysore,
Law Department Bangalore.

Sir

Subject - Suspending the license issued by the Shimoga Town Municipality to the Secretary, Anjuman-e-Islamia, Shimoga Town - for erecting a Garademane in Doddapet Shimoga Town

---

In forwarding herewith a copy of letter No C 1 -72/42-43, dated 30th April 1943, received from the President, Shimoga Town Municipality on the subject, noted above, I have the honour to state as follows -

The Municipal President states that, on receipt of an application on 9-1-43, from the Secretary, Anjuman-e-Islamia Shimoga Town, for grant of license to the construction and of Garadimane in Doddapet of the Town the matter was enquired into and license was granted to the party by the Municipality on 6-4-1943 It is stated that the question was under litigation and the dispute ended in November 1942, by the decision of the High Court of Mysore, to the effect that the people of Doddapet are not the owners of the Institution(vide judgment in appeal No 147 and 148/1939-40)

The Municipal President adds that after the issue of licens from the Municipality, the Anjuman-e-Islamia want to erect a building of their own under the colour of the present license and that the general public of Shimoga are protesting against this action It is reported that the matter is unexpectedly taking a serious turn and is likely to cause breach of the peace

3 In view of the fact that there is no provision in the Municipal Act for with-drawing the license, when once it is issued, and in view of the apprehended signs of the breach of the peace, the

Mxxx

Suspending the license issued by the Shimoga Municipal Council for erecting a Garadimane

698
L
C

Municipal President requests that the construction of the Garadimane building might be prohibited till the matter is disposed of in due course

4 In the circumstances explained above, I have the suspended the license granted by the Municipality from execution under section 194(1) of the Town Municipalities Act 1933 I enclose herewith a copy of my order(i e , ~~C~~ No M3 P L 400/42-43 dated 4th May 1943) for favour of your reference

Hag P

5 I have reserved the question for enquiry and have posted the same for hearing on 31st May 1943

I shall, on completion of the enquiry, submit a detailed report to Government in the matter In the meantime, I request that my action may be approved under section 194(2) Town Municipal Act

I have the honour to be,
Sir,
Your most obedient servant,

5/5/43
Deputy Commissioner,
Shimoga District

DNR /1

To

1) Submitted for perusal Before the action of the D C as approved the Shimoga Town Municipal Council should be given an opportunity, under proviso to Section 194 of the M T M Act, 1933 to Show Cause against the orders passed by him He will, if appd be informed accordingly

6 5 43

2) Yes Draft Plse

6/5/43

3) Submitted with a draft letter to the D C Shimoga

7 5 43

4) Draft appd

7/5/43

5) The Council should be given an opportunity Draft may be approved

6, 5, 43

SECY L DEPT
13271-
8/5/43

OFFICE OF THE MINISTER
FOR L S G & P H
Date 8-5-43
No 9340

Suspending the licence issued by the Shimoga
936 Town Municipal Council for erecting a
698/L "Garademane" (3

General and Revenue Secretariat | ML File No | of 1942 | [App F III-2

Serial No

b) The D C's order of suspension is not final but is kept in force for enquiry on the request of the persons to whom Land Customs to present Commission in the meantime but for may await the report of enquiry & till then the order of the D C will hold good 9 < 43

Cus 10-3-43

for

7) This will of appn be kept in suspension till the receipt of further report from the D C Shimoga Dist

Subs (A) JM 13/3

8) yes for 12/3/43 12/3/43

Letter no M3 P L 400 C 28 43/42-43 dated 18-10-43 from the Deputy Comm Shimoga Dist - forwarding a report on the matter and requesting in the circumstances stated to permanently suspend the licence issued by the Municipal Council

9) The circumstances in which the D C Shimoga Dist has suspended the licence issued by the Shimoga Town Municipal Council to Anjuman-e-Islamia of Shimoga to erect a building of their own for Gard-

NOTE—Cont Sheet

4) Suspending the licence issued by the Shamuoga Town Council for erecting a Garademane

6698/2424

File No. of 1945 | General and Revenue Secretariat

Serial No

marks on both pet- are clearly indicated
in the order dated 16-10-43 - H-25 Seen - Flag H -
therefrom that the municipal council
themselves are willing that the licence
should be suspended
(c) As the D C has ordered
under Section 194 of the T M Act, 1933,
the municipal council must be given,
(under proviso to the said Section) an
opportunity to show cause against the
said order, before Govt can direct
that the order of the D C would be permanent -
Submits with a draft letter to the D C
25.10.43 Shamuoga accordingly
HOR 26/10

11) The D C Shamuoga has held
a detailed enquiry into the matter.
As a result thereof, he has passed
an order dated 16.10.43 setting forth the - Flag H
facts of the case and directing that
the report may be made to Govt to
suspend the licence permanently, leaving the
contending parties to settle their dispute regarding the
possession or right of possession of the Garademane
in the proper court

12) The draft letter to the D C
Shamuoga Govt requesting him to return

and forward a result of the thing in Mad, as required under the provisions of Sec 194 of the Act as for approval. As a matter of fact as will be seen from the President's letter to the Dc that the former has waived the latter to interfere under the above Sec of the Act.

13) For appl - rejection 6 Turn

Law Secy for 26/X/43

14) May issue now

Under Secy SG 27/10/43

for

15) [illegible] 2/11/43 Cus 3-11-43

16) Issue for 3/11/43

To

The Dc Shenoga Vide [illegible] No L 4808 d 9-11-43

Issued certain instructions and Calls for a report—

Petition d 23/11/43 from Mossadi Gulam Ahmed & S Khajamohadeen, the President & the Secretary

OFFICE OF THE SECR FOR L S G & P H Date 27.10.43 N 2646

TYPI SECTION 4 NOV 1943 GEN &

Sh Kumar Gardmance construction Case

6)

Continuation Sheet 11 File No / Current No 6695/24 M5 3224 / 88 of 43 Page

of the Anjuman-e-Islamia Association, the main praying that the D.C may be instructed to allow the Anjuman to proceed to construct its gardinance for the benefit of the Muhammadan Community.

7) The petitioners state that the Shimoga Municipality issued a license to the Anjuman to construct the gardinance but the D.C has, vide his letter dated 3 194 on March 1938, cancelled the license presumably by reason of the representation of the Municipality.

8) Now the petitioners want to appeal against the action taken by the D.C Shimoga Dist

dated 19) On the above letter dated 9 11 43 the Report of the Municipality in this respect has been called for from the D.C (vide para 12 supra) No reply from the D.C has to be awaited before the submission of the case for final orders 20) For perusal

14/12

21) A will be submitted

Law Asst 14/12/43

22) Case 15 12-43

A

Sec A.

23/1

Letter No ND PL 400-C 7642/42-43 dated 26 6 44 from the D.C Shimoga Dist furnishing the report called for

23) On forwarding a copy of the Resolution of the Municipality

WD 01809—GPB—60 000— 6 1 43

Shimoga Dem ord_el stating that it has no objection to the confirmation by Govt of the suspension order issued by the DC seeks orders for suspending the license ~~of the~~ permanently, leaving the contesting parties to settle their dispute re possession or right of possession in a Court of law

24) D'ord ~~both~~ Refer to para 21 Supra

6/7/25 The order dated 16 10 1943 issued by the D C Shimoga ~~dated~~ suspending ~~the license~~, under sec 144 of the Cr P C Tirthahalli dated 1943 the license issued by the Shimoga Taluk Board to the Secy Anjuman-E-Islamia, Shimoga for erecting a ~~a~~ Gurudwara on Doddapet may be confirmed pending settlement of the dispute regarding possession or right of possession in a court of law

Mr Hole, Shimoga is agreeable to act being taken as Refer paras 6, 14, 15 Supra

Law Secy
6/7/44

26) The order of the DC which was quite reasonable may be confirmed

Mudaliar 6/7/44

Law Secy
7-7-44

27) Sd
22-7-44

28) Sd
24-7-44

6 JULY 1944 MYSORE

OFFICE OF THE MINISTER FOR L S G & P H Dt 7-7-44 N 857

WD 0972—GPB—10 000 21-10-42

87)

29) Subd wrote a draft G.O

30) Draft

17/8

17/8

29) L 1893 dt 23.8.18 to the Dte, Showing ODRs Comptroller the order passed by the Govt vide GOMS 1544 Fin (Ser) dt 17-Feb-1933 ...

B

28/8

Mr 88-43-25 (9

No M3 P L 400 C 2643/42-43
Fncl Records 1)order copy (
2) Civil court judgements)
3) Ml Records 4) Police
Inspection Report (

Office of the Deputy Commissioner,
Shimoga District
Shimoga Dated 18th October 1943

To

The Secretary to Government,
Law Department,

Bangalore

Sir,

Subject Suspending the license issued by the Shimoga Town Municiplaity to the Secretary Anjumane-e-Islamia Shimoga Town, for erecting a "Garademane" in Doddapet - Shimoga Town under Section 194 (1) of the Town Municipal Act

- - - -

6698 Cus # 13/5

In inviting kind reference to this office letter No M3 Pl 400/42-43 dated 5th May 1943, on the subject noted above, I have the honour to state that as already reported in para 5 of my letter referred to above I held a detailed enquiry of the case and heard the respective counsels on behalf of the public of Shimoga the Town Municipal Council Shimoga and the Secretary Anjuman-e-Islamia

I enclose herewith a copy of my order No M3 PL 400C 2642-42-43 dated 16-10-43 for favour of kind reference

The circumstances of the case are clearly dealt with therein. The circumstances are of a nature grave enough for me to interfere and suspend the execution of the license so granted by the Municipality The license may therefore be permanently suspended leaving the contending parties to settle their dispute regarding possession of right of possession in the proper court

The entire records bearing on the subject are forwarded herewith for favour of kind reference

In these circumstances I request the favour of early orders of ment in the matter

I have the honour to be
Sir,
Your most obedient servant,

Deputy Commissioner,
Shimoga District

SVR/1

In the Court of the Deputy Commissioner Shimoga District,

Dated Shimoga the 16th October 1943

Present G Sundara Rao Esq , B A ,

Deputy Commissioner Shimoga District

No M 3 P. 400-C 2642/42-43

Petitioners — Respondents -

1 Shimoga Town Municipality — Anjuman-e-Islamia Shimoga

2 Public of Shimoga

Letter No C1-72 of 42-43 dated 30th April 1943 from the Town Municpal Council Shimoga stating that a license was issued by the Municipal Council to Anjuman-e-Islamia of Shimoga to erect a building of their own for a Garadimane in Dodpet of the Shimoga Town near Dasthagir Sab's Chowk and that the general public in Shimoga are protesting against ~~theat~~ this and h the matter has taken unexpectedly a serious turn causing two factions which are likely to cause breach of the peace and that once the license has been given by the Municpal Council there is no provision in the Municipal Act for its withdrawal and requesting the Deputy Commissioner to act under Section 194 clause (1) of the Municipal Act to prohibit the constructions of the building until the matter is disposed of in due course of law

2 Order No M3 PI 400/42-43 dated 4th May 1943 of this office under Section 194 clause (1) of the Town Municipal Act suspending the license granted by the Municipality and prohibiting the constructions under the Municipal license until such time as is required for making enquiries in the matter for its just and equitable disposal

Order under Section 194 Town Municipality Act

1 I have heard Mr T G Narayana Iyengar for Anjuman-e-Islamia Shimoga and Mr T Venkatasubba Sastry on behalf of the public of Shimoga and Mr L Govinda Rao on behalf of the Shimoga Town Municipality Mr Narayana Iyengar contends that a case of this kind is not contemplated under Section 194 clause (1) of the Town Municipalityes Act for interference by the Deputy Commissioner as the granting of a licence is not an order or a resolution of a Municipal Council or the doing of an act likely to cause injury etc In the second place he contends that the Municipal Council seem to have gone out of their way to recommend to the Deputy Commissioner interference under this Section when the clear duty of a Municipality is ~~great~~ grant or refuse license for sanitary or other conditions clearly enumerate

on in the Act and not on considerations of civil rights and liabilities which the Municipalities must leave to the Civil and criminal courts having jurisdiction over them to decide His third contention is that a lot of civil litigation has been undertaken by both the parties between the year 1925 and 1942 and the right of possession to the Idgahs as well as the Garadi has been the subject matter of suits and appeals from the Munsiff Court of Shimoga right up to the High Court in which the Anjuman-e-Islamia whether legally or otherwise has been recognised as being in physical possession of these properties and therefore the Municipality was quite right in granting the license and if there was any threat from any other contending party the duty of the executive Government is to prevent the aggressor from interfering with the Anjuman-e-Islamia in carrying out their legitimate duty as sole manager of the Garadi and Idgahs in questio On behalf of the public Mr T V S Sastry contends that the suit in the Munsiff Court was not brought by the public of Shimoga but by the public of Dodpet and so it was dismissed In the Sub-Court the learned Sub-Judge allowed the plaint from the Dodpet people to be construed as a plaint fro the public of Shimoga and decreed the suit property to be handed over to the plaintiffs In the High Court the procedure was objected to and the original findings of the Munsiff were restored He draws my attention to paras 50 51 52 and 54 of the learned Munsiff's judgment in which the gymnasyam is held to have been constructed and made a charitable institution for the benefit of the public at large without restriction by any community or communal body Thus even the judment of the learned Munsiff on which the Anjuman-e-Islamia party depends for their physical possession of the property gives the lie direct to their contention of sole management of the properties

2 The Police report makes out that if this building is allowed to be built it is likely to fan feelings of both sides leading to a breach of the public peace As a matter of fact a monster petition signed by hundreds of people has been presented to the Municipal Council objecting to the grant of license to the Anjuman-e-Islamia which adds support to the opinion of the Police about the imminance of disturbance to public tranquility The Municipal Council themselves are quite willing that I should exercise the pwower under Section 194 I hold that the grant of a license amounts to the doing of an Act by the Chief Officer under Section 211 on behalf of the Municipal Council and the circumstances are of a nature enough for me to interfere and suspend the operation of the license

(12)

granted A report will therefore be made to Government that the licence may be permanently suspended leaving the contending parties to settle their dispute regarding possession or right of possession in the proper Court

Dictated and after revision pronounced by me in Open Court

Sd/- G Sundara Rao

Deputy Commissioner Shimoga District

16-10-1943

SVR/1

COPY

for Deputy Commissioner,
Shimoga District

(13

Appendix F G —1]

SUBJECT Suspending the licences issued by the Shimoga Town Municipal Council to Secretary Anjaneya - C - I Shamma Shimoga Town for erecting a 'Garadamane' in Doddapet - Shimoga Town

Section Ml

File No 88-43

Serial No 29

Diary No of letter replied to

No LL 8 08/W/2

General and Revenue Secretariat

( )

the *194*

To

D C Shimoga

Sir

Subject - The correspondence ending with C2643

With reference to your letter no M3 P L 60 d/42-43 dated 18-10-43 requesting approval to the action taken by you in the matter referred to above, I am directed to state that - under the provisions to Section 194 of the Mysore Town Municipalities Act, 1933 the Shimoga Town Municipal Council should be given an opportunity to Show Cause against your orders before they could be approved by Govt -

Date of issue 9/11

Signed by

List of enclosures

Codied by

Examined by

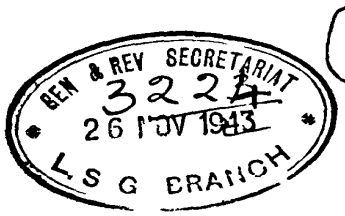
WD 04161—GPB—60 000—24 10 41

14) I am to request you therefore to obtain a formal resolution of the said municipal Council on the matter and submit the same for the orders of Govt under clause 2 of Section 194 of the ~~Town Municipalities~~ Act. The records accompany

I have &c

Sd/-
6-43

for Secy to Govt
Law Deptt



To,

The Chief Secretary to the Government of Mysore
(Local Self-Government Department)
Bangalore

Petitioners - The Anjuman-e-islamia Association, Shimoga by its President(1)H Gulam Abid, Advocate Shimoga, and its Secretary (2)S Khaja-mohadeen, Shimoga

The petitioners beg to state as follows -

1 The Deputy Commissioner of Shimoga, acting under section 194 of Act VIII of 1933 has reported to - Government recommending the suspension permanently of the license issued by the Shimoga Municipality to the Anjuman-e-islamia, in Shimoga, for construction of the Gardimane or Gymnasium or Talimkhana called the - Dastagirsab's Gardimane in its original place near the Dastagirsab's Chowk in Shimoga Doddapetta

2 The license in question was granted by the - Municipality in its License No 97 dated 6-4-1943 after a due consideration of the judgments of the Munsiff, Subordinate Judge and High Court, in O S 353 & 354/24-25 on the file of the Munsiff of Shimoga and S A Nos 147 & 148 of 1939-40 on the file of the - High Court of Mysore at Bangalore

3 The Munsiff's judgment made in O S 353 & 354 of 24-25 on his file, clearly states that the Anjuman has

has been in possession of the Gardimane and its properties since the year 1919 when it was started

4 The suits brought by the public of Doddapetta for a declaration of their right to and possession of the properties appertaining to the said Gardimane has been duly dismissed The suits were brought in the year 1925, having filed them on 18-6-25, and the judgment finds that from prior to the date of the said suits ever since 1919 when the Anjuman-e-islamia was started, the said Garadimane and its properties are in the possession and the management of the Anjuman-e-Islamia

5 These judgments are confirmed by the High Court in S A Nos 147 and 148 / 30-40

6 It is thus seen that rightly or wrongly, the Anjumah is in the management of the Garadimane After the end of the litigation so started in the year 1925 and ending by the High Court decisions on 27-11-1942, they purported to get the Gardimane constructed for the use of the public at large and not merely for the Doddapetta people as contended by them in these suits, on the - original site of the dilapidated Garadimane

7 The Municipality granted the license and the Doddapetta people, who were no other than some of the plaintiffs in the aforesaid suits, attempted to create disturbance and on that score moved the Municipality for cancelling the license already granted to the - Anjuman Association

8 The Municipality has moved the Deputy Commissioner under

under section 194 of the Municipal Act VIII of 1933 and in doing so took up the cause of the people who wanted the cancellation of the license already granted

9 The Deputy Commissioner had no jurisdiction under section 194, to interfere in the matter of the grant of license by a Municipality to the Anjuman as it was not-

(i) the execution of any order or resolution of a Municipal Council

or

(ii) the doing of anything on behalf of the Municipal Council as required under - section 194 of the Act VIII of 1939

10 The grant of a license for the construction of a building was neither an order of the Municipal Council or for anything to be done on behalf of the Municipal - Council But yet the Deputy Commissioner has acceded to the recommendation of the Municipality, proceeded to suspend the license granted and has after a long interval reported to Government on 16-10-1943 for sanction of this suspension of the license as a permanent measure

11 The Order and Recommendation of the Deputy - Commissioner is not legal it is not warranted by section 194 of Act VIII of 1933 under which it purports to have been made it infringes the right of the Anjuman which it acquired by long possession and enjoyment from the year 1919 and the Anjuman has all along even from their written Statements in the above said suits been contending that

the

the institution is for the use of the public at large and the license was obtained for putting the Garadimane for the use of the entire public

In these circumstances the petitioners pray that the Government may be pleased to modify the order of the Deputy Commissioner by permitting the Anjuman to proceed with the construction under the license and put up the building for the use of the entire public of Shimoga

23 11-1943

H Gulam Ahmad
Secretary
Anjuman Islamia
Shimoga

App F XI—4]

ml File No 88-43

Serial No 29

Sus Regr No 27 (19

Shall a reminder issue to DC Shenango

for a reply to this Office No L 48088 dated the 9 11 43

Subject Calls for the resolution of the Shenango Township relative to the cancellation of the license granted to the Secy of the Navy - Navy Ordnance Plant Shenango for the construction of a gas detonator at the plant

BG 18/11

REMINDERS

No	Date	

WD 0382 C I B—6 000—1-8-42

TH 88-43-128

8320 (20

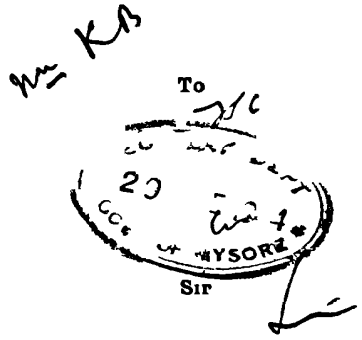
C F No 45]

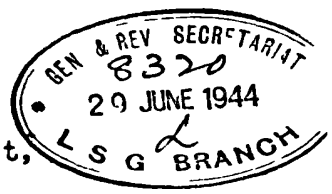
GOVERNMENT OF MYSORE

T I s m ph

No M3 P L 400-C2642/42-43
Encls Records with a Letter and Resolution Copy

OFFICE OF
The Deputy Commissioner,
Shimoga District
S h i m o g a
Date 26th June 1944





The Legal Remembrancer
and Secretary to Government,
Law Department, Bangalore

Subject - Suspending the license issued by the Shimoga Town Municipal Council to the Secretary, - Anjumane-e-Islamia, Shimoga Town, for - erecting a Garademane in Doddapet, Shimoga Town

With reference to your letter No L 4808/M1 88-43-29 dated 9th November 1943, on the subject noted above, I have the honour to state that the Shimoga Town Municipal Council had been given an opportunity to show cause why this Office Order No 44-C2684/42-43 dated 16th Octo 1943 communicated to him should not be confirmed by Government

2 The Municipal President states in his letter No C1-72/42-43 9th June 1944 that the Municipal Council considered the question at its meeting held on 6-6-1944, when a resolution was passed to the effe that the Council has no objection to the confirmation by Government of the suspension order issued by the Deputy Commissioner, Shimoga Distri in his Order No M3-P L 400-C2642/42-43 dated 16th October 1943

3 In the circumstances, I request that orders of Government may kindly be obtained for suspending the license permanently, leaving the contesting parties to settle their dispute regarding possession or right of possession in the proper Court

4 The entire records received with your letter under reference are forwarded herewith for favour of reference and return when done with

I have the honour to be,
Sir,
Your most obedient servant,

Deputy Commissioner,
Shimoga District

YRR/1

G R S App F VI—G 2]

SUBJECT

(21)

Diary No of letter replied to

General and Revenue Secretariat

( )

the 194

Section Mnl

File No 88-43

Serial No 129

Proceedings of the Government of
His Highness the Maharaja of Mysore

Date of issue 23/8/7 1944

Signed by

May this be—

(i) printed?

(ii) treated as a Standing Order?

(iii) published in the Gazette English Part?

(iv) translated?

(v) placed at the disposal of the Press?

(vi) published in the Gazette Kannada Part?

Read— Correspondence ending with letter no M3 PL 400-C 2642/42-43 dt 26-6-44 from the DC, Shimoga dist requesting that his order dated 16-10-43 suspending under sec 194 of the Mysore Town Municipalities Act 1933 the license issued by the Shimoga Town Municipal Council to the Secretary, Anjuman-e-Islam Shimoga town for erecting a Garadimane in Doddapet, may be confirmed, pending settlement of the dispute regarding possession or rights of

of the said land

in possession, in a court of law and adding that

were

to show cause why the order was not executed

however as the petitioner

above

Govt are pleased to confirm the order

appeal the action of the

D C under Section 194 (2)

of the Town Municipal Act 1933

Secy to Govt

Law Dept

17/8

the D C of Chingleput was

By registered post

List of Enclosures

Copied by

Examined by

(23

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Read -

Correspondence ending with letter No M J P L 400-C 2642/42-43 dated the 26th June 1944 from the Deputy Commissioner, Shimoga District, requesting that his order No M J P L 400-C 2642/42-43 dated the 16th October 1943 suspending under Section 194 of the Mysore Town Municipalities Act 1933, the licence issued by the Shimoga Town Municipal Council to the Secretary, Anjuman-e-Islamia, Shimoga Town for erecting a Garadimane in Doddapet, may be confirmed, pending settlement of the dispute regarding possession or right of possession of the said land in a Court of Law and adding that the Shimoga Town Municipal Council who were consulted have no objection to the confirmation of the above order passed by him

Order No L 1803/mL 88-43-129

Bangalore, the 23 Aug 1944

Government are pleased to confirm the above order of the Deputy Commissioner under Section 194(2) of the Mysore Town Municipalities Act of 1933

Ramachandra

For Secretary to Government,
Law Department

11758 21/8

The Deputy Commissioner, Shimoga Dt , with records by Registered Post

vvk 2